

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

GAIL DEAL-HOOD,

Plaintiff,

v.

CITY OF EAST ST. LOUIS, ILLINOIS, and
ARTHUR JOHNSON, in his individual
capacity,

Defendants.

Case No. 10-cv-730-JPG

MEMORANDUM AND ORDER

This matter comes before the Court on the objection of defendant City of East St. Louis (“City”) (Doc. 63) to Magistrate Judge Frazier’s October 17, 2011, order (Doc. 62) denying its third motion for an extension of time to file dispositive motions (Doc. 59). A district court reviewing a magistrate judge’s decision on nondispositive issues should only modify or set aside that decision if it is clearly erroneous or contrary to law. *See* Fed. R. Civ. P. 72(a); 28 U.S.C. § 636(b)(1)(A). Accordingly, the Court will affirm Magistrate Judge Frazier’s decision unless his factual findings are clearly erroneous or his legal conclusions are contrary to law. *Id.*

The City makes this fourth request¹ for an extension of time to file dispositive motions because it had been unable to take the deposition of witness Alice Hamilton as scheduled on September 2, 2011. The deposition was not able to take place because the sheriff’s department responsible for serving the deponent was unable to effectuate service before the deposition. The deposition was rescheduled beyond the dispositive motion deadline of October 14, 2011. The City requests the dispositive motion deadline be extended to November 14, 2011.

¹The first request for an extension was pursuant to a joint motion filed by plaintiff Gail Deal-Hood (Doc. 44). Thus, the City’s third motion actually reflects its fourth request.

Magistrate Judge Frazier denied the City's motion, noting that three prior dispositive motion deadline extensions, which together moved the deadline from June 12, 2011, to October 14, 2011, allowed sufficient time for the City to secure Hamilton's deposition. The failure to obtain Hamilton's deposition before the final deadline did not amount to good cause for extending a motions deadline, Magistrate Judge Frazier found. The City now argues that its inability to depose Hamilton on time provided good cause and that the deadline should be extended.

The City has not shown that Magistrate Judge Frazier's order was clearly erroneous or contrary to law. The City had obtained three prior extensions of time, the last of which was requested *after* the September 2, 2011, deposition of Hamilton fell through and for the express purpose of conducting that deposition. That the City failed to depose Hamilton in a timely manner after September 2, 2011, in order to meet the October 14, 2011, deadline does not constitute good cause for extending the deadline a fourth time.

For this reason, the Court **OVERRULES** the City's objection (Doc. 63) and **AFFIRMS** Magistrate Judge Frazier's order (Doc. 62).

IT IS SO ORDERED.

DATED: October 25, 2011

s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE